

1997-98 SESSION
COMMITTEE HEARING
RECORDS

Committee Name:

Joint Committee for
Review of
Administrative Rules

(JCR-AR)

Sample:

- Record of Comm. Proceedings
- 97hr_AC-EdR_RCP_pt01a
- 97hr_AC-EdR_RCP_pt01b
- 97hr_AC-EdR_RCP_pt02

➤ Appointments ... Appt

➤

➤ Clearinghouse Rules ... CRule

➤

➤ Committee Hearings ... CH

➤

➤ Committee Reports ... CR

➤

➤ Executive Sessions ... ES

➤

➤ Hearing Records ... HR

➤

➤ Miscellaneous ... Misc

➤ 97hr_JCR-AR_Misc_pt13

➤ Record of Comm. Proceedings ... RCP

➤

particulate matter and NOx air quality standards. He noted that the PSD increment issue still had to be discussed with USEPA.

MORE ACCURATE MODELING =
COMPLIANCE FOR NOx/particulate
matter.

Suggestion as to how to resolve issue

John Melby suggested that we re-look at the issues discussed and then make adjustments, if necessary. John suggested that a modeling analysis be conducted to look at source impacts at different distances from the particulate matter nonattainment area. He thought that a map could be drawn to show that, for example, from the nonattainment area to 250 meters from the nonattainment area, the crusher would not be allowed any opacity. From 250 meters to 500 meters, perhaps, an opacity limit of between 5-10% would be in order. After 500 meters, then the requirements in the GOP would be sufficient. We agreed to complete this work. People were assigned the following:

1. SER will review the list of GOPs. They will determine which of the companies should not have had a GOP issued.
2. Sue Courter, John Melby, Mike Griffin, and Eric Donaldson will determine what a "typical" crushing spread means.
3. After a "typical" crushing spread is determined John Roth will complete a modeling analysis at different distances from the nonattainment area. The modeling analysis will be completed, reviewed, and then issued as general guidance that will apply to all particulate matter nonattainment areas in the state.

Next meeting

We hold a conference call on Thursday, November 20, at 9:30 a.m.

Clausen, Shayne

From: Craig S. Rendahl[SMTP:Rendahl@PipeLine.Com]
Sent: Monday, September 29, 1997 7:56 PM
To: Sen.Welch
Subject: WI Electric Utilities

Hi again,

Thought you would find the following articles interesting. The first of three articles is WI electric utilities reaction to tighter ozone standards. Keep in mind that there are only a couple of hours a year when there's problems with ozone being above the standard. Of course this changes if the standard were lowered by one-third!

The last article makes an interesting point that one Federal law will be interfering with another. Looks like the grounds for a big fat lawsuit!

Craig

P.S. Please pardon the poor format. I didn't have time to clean things up.

>> Tighter emission standards may add to utilities' woes
>>
>>
>>
>> Pete Millard
>>
>> As if Wisconsin's electric utilities don't have enough to
>> worry about with the uncertainties of
>> deregulation and energy reliability questions, the U.S.
>> Environmental Protection Agency is poised to
>> place new standards on fossil fuel generation plants.
>>
>> However, there are conflicting views on how Wisconsin
>> utilities will be affected by the EPA's new
>> clean-air initiatives.
>>
>> Wisconsin Electric Power Co., a subsidiary of Wisconsin
>> Energy Corp., Milwaukee, and the largest
>> utility in the state, expects the new regulations to aid its
>> long-term operational plans by placing more
>> strict limits on utilities south and east of Wisconsin.
>>
>> Wisconsin Power & Light Co., a subsidiary of the WPL
>> Holdings Inc., Madison, is more leery of
>> how the regulations will be implemented in Wisconsin. WPL is
>> the state's second-largest utility.
>>
>> Recommendations released this summer by a 37-state
>> coalition, including Wisconsin, called the
>> Ozone Transport Assessment Group (OTAG), have been
>> integrated with EPA's new National
>> Ambient Air Quality Standards (NAAQS) to address ozone
>> attainment goals.
>>
>> Any resulting policy will have an impact on southeast
>> Wisconsin, which is an ozone nonattainment

>> area. That means the seven-county area is subject to strict
>> air-quality rules on nitrogen oxides (NOx)
>> and volatile organic compound (VOC) emissions, which are the
>> chief sources of ozone pollution.
>>
>> Tighter restrictions
>>
>> The new standards will impose tighter controls on industrial
>> sources, more restrictions on motor
>> vehicles, new restrictions on agricultural operations and
>> possible limitations on day-to-day activities
>> such as lawn mowing and outdoor cooking.
>>
>> While many large manufacturing facilities in the state will
>> be targeted by the new air quality standards,
>> electric utility generation plants historically have
>> received the brunt of the regulatory hits because they
>> are largest sources of emissions.
>>
>> "In the clean air quest, the quickest and easiest targets to
>> hit are the big sources," said Tony Earl, an
>> environmental attorney who works out of Quarles & Brady's
>> Madison office.
>>
>> Earl, a former Wisconsin governor and secretary of the
>> Department of Natural Resources, is
>> optimistic that Wisconsin utilities will not be hammered as
>> hard as utilities east and south of
>> Wisconsin.
>>
>> Earl said coal-fired electric generation plants in Ohio,
>> Kentucky, Indiana and Illinois are likely to be
>> affected more than those in Wisconsin because of their ozone
>> transport capability.
>>
>> Kris McKinney, manager of environmental policy for Wisconsin
>> Electric, said the OTAG
>> recommendations will make it easier for southeast Wisconsin
>> to meet its ozone reduction goals.
>>
>> One specific recommendation to come from OTAG that will have
>> an immediate impact, McKinney
>> said, will be a trading program on the open market for NOx
>> and VOC emission credits. The new
>> trading program is patterned after the sulfur dioxide (SO2)
>> trading program, which was implemented
>> several years ago to reduce acid rain.
>>
>> "The trading program means long-term compliance on ozone and
>> particulate matter will be easier,"
>> Earl said.
>>
>> McKinney said EPA has not yet given states their marching
>> orders to set up statewide implementation
>> plans. He hopes the plans will be based on technical
>> analysis.
>>
>> "Our biggest concern is that the EPA standards will not be
>> based on good science," said Joe
>> Shefchek, vice president of environmental affairs and

>> research for WPL.
>>
>> Shefchek fears the EPA will base its air-quality policy on a
>> single study that has not been
>> peer-reviewed and may not result in the health benefits it
>> purports to improve.
>>
>> "The economic cost may far outweigh the health benefits they
>> expect to receive," Shefchek said. "We
>> need to ensure that the money we are spending on air
>> pollution control results in the desired benefits."
>>
>> There are 17 coal-fired electricity generation plants in
>> Wisconsin, said Larry Bruss, the DNR's chief
>> of the bureau of air management's ozone section. The largest
>> plants are in southeast Wisconsin and
>> are owned by Wisconsin Electric and WPL.

>> Good timing
>>
>> Bruss said the timing of the EPA's ozone standards should
>> work to the advantage of the utilities,
>> which could incorporate ozone reduction programs into their
>> plans for their long-term futures in a
>> deregulated market.

>>
>> "It is good that this is all happening at once, so they can
>> deal with it holistically instead of a piecemeal
>> fashion," Bruss said.

>>
>> McKinney said the state "budgets" that EPA will hand down
>> later this month potentially could limit
>> utility NOx emissions by as much as 85 percent to reduce
>> zone transport.

>>
>> Shefchek said a stringent statewide implementation plan for
>> ozone is bound to generate intense
>> political opposition as EPA moves forward on revised
>> standards that could cause hundreds of
>> counties in the Midwest and South to be designated as
>> nonattainment areas for the location of new
>> power plants and manufacturing facilities.

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>> September 8, 1997

>> In My Opinion

>> Ozone rating irks Valley businesses

>>
>> Valley business leaders are angry with the U.S.
>> Environmental Protection Agency's decision to
>> reclassify the area's ozone pollution from "moderate" to
>> "serious."

>> They say the reclassification came despite good-faith
>> legislative and private-sector efforts to improve
>> air quality and despite zero noncompliance days to date in
>> 1997.

>> And, they say, the decision is a direct result of a lawsuit
>> filed in U.S. District Court in Phoenix against
>> the EPA. Represented by attorney David Baron, the Center for
>> Law and the Public Interest, on
>> behalf of the American Lung Association and two Phoenix
>> residents, the suit alleges the EPA violated
>> federal laws by failing to require adequate pollution
>> controls, thus causing a rise in respiratory
>> problems.

>> "We've done as much as anybody, and the EPA didn't show the
>> flexibility here," said Bill Wiley,
>> manager of environmental health and safety for Arizona
>> Public Service Co. "And what the difficult
>> part is, this is the best year we've had on record."

>> Ironically, Wiley and others noted, the EPA's letter to Gov.
>> Fife Symington, informing of the pending
>> change, gushed with compliments for air-quality controls
>> that have been enacted here, even while the
>> Valley was tagged with a more severe label.

>> "I feel frustrated," said Rep. Carolyn Allen, R-Scottsdale.
>> "Just one more time I have to go back to a
>> legislator who will say, 'You again? I thought we solved
>> this problem.'"

>> "We've really been used as a willing laboratory for the
>> EPA," Allen said, noting the 1995 beginning of
>> the I/M 240 emissions test; the air-quality omnibus bill
>> passed last session which includes tax credits
>> for alternative fuel vehicle purchases and voluntary
>> trade-in of gasoline-powered lawn mowers to
>> electric mowers; and the clean-burning gasoline introduced
>> this summer.

>> In its letter, the EPA acknowledges the Valley's successes.

>> And in an EPA news release, the agency states the proposal
>> does not indicate ozone air quality is
>> worsening. "In fact, thanks to the area's continuing efforts
>> to implement a wide variety of measures to
>> reduce pollution, ozone levels in the Phoenix metropolitan
>> area have remained relatively stable... ."

>> According to EPA officials, the reclassification is a direct
>> result of the Clean Air Act, which gave
>> every city the same chance to improve ozone quality. There
>> is a flexibility provision that would extend
>> the deadline to attainment by one year, said spokesman Randy
>> Wittorp, but the extra time would not
>> have altered Phoenix's status.

>> On Aug. 25 the EPA dropped the Valley's ozone rating to
>> "serious" nonattainment because it failed to

>> meet the federal standards by Nov. 15, 1996. The decision is
>> now in a 30-day public comment
>> period and the reclassification, if it goes through, will be
>> complete by late October; however, in the
>> eyes of many, the decision has been made.

>>
>> "In my opinion, it is a foregone conclusion," Allen said. "I
>> would like to tell you that's not the case, but
>>"

>>
>> From 1994 to 1996, the Valley experienced 21 days of
>> unhealthy levels of ozone pollution, but
>> business leaders argue those figures are on the decline due
>> to public awareness and business
>> concerns. The area experienced four days of unhealthy ozone
>> levels in 1996 and there have been zero
>> ozone violations so far in 1997.

>>
>> Phoenix already has a rating of "serious" for its
>> particulate matter and carbon monoxide emissions, the
>> two other measured air-quality standards.

>>
>> By and large, the strain over the EPA's recent move is
>> heartfelt because of perceived drawbacks to
>> the Valley's economic development.

>>
>> In 1992, a group of business and government leaders already
>> were beginning to analyze the economic
>> impact a "serious" classification would create. The economic
>> impact task force was comprised of
>> representatives of Motorola Inc., APS, Salt River Project,
>> Maricopa County, the Arizona
>> Association of Industries, Greater Phoenix Economic Council
>> and the Arizona Chamber of
>> Commerce.

>>
>> Among the study's conclusions, if Phoenix were reclassified,
>> were the predicted "loss over the next
>> five to 10 years of thousands of jobs and hundreds of
>> millions of dollars in lost revenue to the state,
>> county and local governments with serious impacts on
>> education funding and services." The
>> soothsayers also reported lost "opportunity to recruit
>> high-technology manufacturing companies. Job
>> growth would be primarily in the lower wage areas"

>>
>> On Aug. 26, the day after the announcement, a group of
>> business and industry leaders met to
>> brainstorm ways to meet the EPA's new standards as well as
>> maintain the Valley's current growth.
>> Arizona Chamber of Commerce, Arizona Association of
>> Industries, the National Federation of
>> Independent Businesses, the Association of General
>> Contractors, the Arizona Rock Products
>> Association and SRP executives discussed what further
>> programs can be implemented to spare the
>> ozone.

>>
>> "We respect them, but they blew the call," said Tim Lawless,
>> vice president of public affairs for the

>> Arizona Chamber of Commerce. At this point, he said, the
>> groups will continue the dialogue with the
>> EPA although they "don't expect the umpire to change the
>> decision."

>> As well, the group will be talking to Congress,
>> communicating with other states and again considering
>> supporting other environmental measures, such as a voluntary
>> vehicle retirement bill, at the state level.

>> "If the EPA had not been sued," Lawless said, "the EPA would
>> have said, you have taken us deadly
>> serious, despite a spirit of 'state's rights.' We've
>> overcome that to do what's right."

>> The EPA denies the reclassification is a direct result of
>> the lawsuit, but demonstrates the fact that
>> Phoenix needs to do more to reduce air pollution.

>> "As far as what kinds of measures are put into place in
>> Phoenix," Wittorp said, "the Phoenix
>> community, including the business community, has input on
>> where Phoenix goes from here. It's a
>> public process."

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>> New EPA rules worry small-business
>> backers

>> By George Hunter / The Detroit News

>> Small business advocates are concerned the
>> passage of clean air regulations will render
>> useless a law that requires Congress to study
>> the impact of new environmental mandates
>> on small companies.

>> President Clinton in June approved
>> regulations recommended by the Environmental
>> Protection Agency which will require each state
>> to find ways to reduce air emissions by
>> the year 2004.

>> Barry Cargill, vice-president of government
>> relations at the Small Business Association
>> of Michigan, said if the EPA regulations are
>> imposed, it effectively will nullify the Small
>> Business Regulatory Enforcement Fairness Act,
>> which was passed last year.

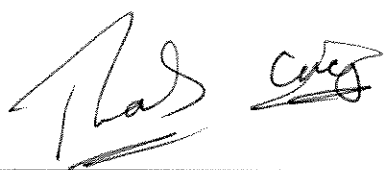
>> "This is the first real test of (the act),"
>> Cargill said. "We fought long and hard to get that
>> law passed. Now they're basically ignoring it.
>> "I'm concerned there's going to be a
>> precedent set here. If Congress is allowed to just
>> ignore the act in this case, then other federal
>> regulatory agencies will also ignore the law."

>> The act requires Congress to set up a
>> committee to study the impact of any pending

>> environmental regulation on small businesses.
>> EPA spokesman David Ryan said the law
>> doesn't apply in this case.
>> "We've heard the argument a million times,"
>> Ryan said. "But under the Clean Air Act of
>> 1990, the congressional language does not allow
>> us to take costs or other impacts under
>> consideration. In setting the standards, all we
>> can consider is the scientific data."
>> Cargill said the scientific data are
>> inconclusive.
>> "I question whether these new regulations
>> will have any effect at all," he said.
>> Cargill's association is petitioning
>> Congress to rescind the EPA mandate until a
>> committee can study the effect on small
>> business.
>> "For Congress to pass these regulations
>> without even considering the impact is unfair,"
>> he said.
>> Small companies such as dry cleaners and
>> automotive paint shops were hit hard by the
>> 1990 Clean Air Act, which required states to
>> lower emissions, Cargill said.
>> "A lot of businesses had to change their
>> whole operations because of (the 1990
>> mandate)," he said. "Now, they're telling them
>> they have to go out again and buy a bunch
>> of new equipment so they can comply with the
>> new rules. Where does it end?"

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Clausen, Shayne

From: Craig S. Rendahl[SMTP:Rendahl@PipeLine.Com]
Sent: Monday, September 29, 1997 7:51 PM
To: Sen. Welch
Subject: US Rep Green

Hi,

The following came across my virtual desk that shows growing discontent with recent USEPA actions to lower the health standards. I thought you would be interested in this. I have more info that I will send to you. Please let me know if you are interested in receiving these types of updates.

By the way, a strand of human hair is 60-70 microns. The current particulate matter air quality standard is 10 microns. USEPA now wants to go down to 2.5 micron sized particulates. This is getting down to the sizes of large molecules!

Craig

6:42 PM 9/25/1997

Green, a Democrat, represents Texas' 29th Congressional District, which is north Houston. Tougher air standards will do more harm than good

By U.S. REP. GENE GREEN

On July 16, Environmental Protection Agency Administrator Carol Browner signed new Clean Air Act standards for ground-level ozone (smog) and fine particulate matter (soot). These new standards may be good in theory but in actual application they may be unrealistic.

As a member of the House Commerce Subcommittee on Health and Environment, I sat through five hearings on the new standards. While many scientists testified about the need to change the ozone and particulate matter standards, just as many scientists, if not more, testified about the lack of good, sound science to back the need for the standards. The cost to comply with these standards is great. I have heard from many state and local officials who believe that the new standards will tie their hands as they struggle to preserve, protect and create jobs. We need to make absolutely sure that a stricter standard is needed before we inflict these massive costs.

These new standards set the maximum level of ozone and particulate matter allowable in the atmosphere. Each state must develop and implement plans designed to bring all areas within the state into compliance with these new standards. According to the Texas Natural Resource Conservation Commission, the Texas' current implementation plan reduced emissions from the refining and petrochemical processes in the Houston area more than 50 percent between 1970 and 1980. Additional reductions were obtained through the gradual replacement of older, high-polluting vehicles with new lower-emitting vehicles.

These efforts, along with the use of reformulated gasoline, have made a great improvement in air quality in Houston. We need to do better, but we should make sure any such investment will result in cleaner air quality.

As a nonattainment area -- an area that is not up to the current clean air standards -- Houston would face severe restrictions on the addition of new commercial facilities and the expansion of existing facilities. It also must adopt strict reduction requirements on even the smallest industrial operations.

Although we may not work at one of our heavy industries in Houston, most of us drive cars. As motorists, we could see tougher standards on auto emissions. The consequences of these new standards may shift investment dollars out of Houston and into another city or even out of the country.

Houston is not meeting current standards. Any new standards would only make it less likely that Houston could ever come into compliance. If we are not scoring touchdowns, we should not move the goal posts to make it harder to achieve success.

The EPA should spend more time analyzing the scientific data on these two air pollutants. For example, the EPA has publicly and repeatedly stated that the Clean Air Act is working to reduce air pollution. The EPA's recent air pollution "trends" analysis found 204 metropolitan areas with downward trends in pollution levels and only 16 showing an increase.

It is also not definite whether there will be an improvement in public health due to more stringent air quality standards. Currently, the EPA standard for ozone is very low. Yet the imposition of the new standard will disrupt the current improvements in the existing ozone level under the 1990 Clean Air Act Amendments. Thus, it could also lead to less progress on clean air.

On particulate matter, EPA acknowledges that additional monitoring of the air should be done to determine the extent of the fine particle problem. Because of the lack of monitoring data, the EPA and the states cannot start designating areas and ordering emissions reductions for approximately five to eight years. This delay gives ample time for EPA to reconsider the science and to build consensus before implementing a new standard.

This fall the Congress will consider whether to overturn or delay their implementation. I intend to support HR 1984, which will remove the artificial pressure to finalize these standards at this time. This bill places a four-year moratorium on the establishment of any new standards for ozone and particulate matter. It also authorizes the EPA to continue to study the need for standards.

Because the EPA has stated that it will be at least seven years before the standards are actually implemented, this legislation will have no negative effect on public health. In fact, this bill will ensure that the current progress in clean air continues.

Clausen, Shayne

From: Craig S. Rendahl[SMTP:Rendahl@pipeline.com]
Sent: Tuesday, September 30, 1997 3:43 PM
To: Sen.Welch
Subject: MKE health dept, etc.

The first of the three articles in this message was very interesting. It never ceases to amaze me that some people will push their agenda with a scientific bend even though their arguments don't hold up to scrutiny. The second article shows how a slanted poll can cause public opinion to "appear" to be something that it isn't. If Virginians were really troubled by the environment, the candidates for public office would be shrouded in environmental causes. Lastly, environmental laws have the effect of creating near-monopolies by putting the little guys out of business. Liberals love this kind of activity, and while direct attempts at socialism have failed in the US, the liberals will now try a more indirect approach through environmental laws.

Craig

EPA strategy makes sense

Paul Nannis Commissioner Of Milwaukee Health Department

I would like to respond to State Sen. Margaret Farrow's recent comments (July 25 Comment) regarding the USEPA's proposed revision to the federal Clean Air Act Pollution standards -- in particular the new ozone limit.

In her comments, Sen. Farrow is critical of a stricter ozone standard and the EPA failure to recognize the effect of "ozone transport" on local air quality. She also stresses the economic burden to industry of compliance, as well as the current lack of uniform enforcement of pollution standards across state lines. Sen. Farrow closes by questioning the effectiveness of "Ozone Action Days" in terms of any actual impact on the reduction of air pollution.

First, the need for a more stringent federal ozone standard from a public health standpoint is inarguable. The proposed new standard is appropriately "health-based." It is supported by numerous studies demonstrating the adverse effects of ozone exposure on otherwise healthy adults at levels well below the current standard of 0.12 ppm. In addition, ozone exposure at low levels is implicated in irreversible changes in pulmonary function, including damage to lung tissue and the development of chronic respiratory diseases such as bronchitis and emphysema. Furthermore, no one can ignore the role of ozone in exacerbating other lung conditions, such as chronic asthma, which is on the increase globally and affects more than 14 million adults and children in this country alone.

Second, while ozone movement does contribute to ozone problems downwind, all air models recognize and account for ozone that is local in origin. Sen. Farrow fails to acknowledge that "Wisconsin ozone" is also transported (similar to the Illinois variety) downwind to other communities, especially those bordering the Lake Michigan shoreline. The simple fact is that air pollutants do not recognize political boundaries and can adversely affect quality of life in areas far removed from the source. The revised USEPA mandated state implementation plans (SIPs) recognize this phenomena and incorporate

enforcement actions to eventually ensure ozone reduction on a broad, regional basis. While not the strict uniform enforcement that Sen. Farrow advocates, any resulting enforcement will be much more equitable and based on actual regional "areas of influence," as opposed to an "area of violation."

The Ozone Transport Assessment Group (OTAG), comprising 37 states, industry and environmental groups east of the Mississippi River, is a good example of an EPA partnership reflecting the philosophy of building consensus on meaningful source reduction in multi-state ozone corridors, as well as assisting local areas in achieving federal air quality standards. OTAG is slated to recommend a control strategy to the EPA this year.

Third, while there may be some economic impact on specific industries as related to compliance with the new regulations, such as coal-burning utilities (which produce a wide array of pollutants), compliance with the proposed regulations focuses more heavily on consumer related activities and mobile sources of emissions. Passenger automobiles, recreational vehicles and lawn and garden equipment can account for up to 45 percent of ozone impacting non-attainment areas, by recent WDNR calculations. Strategies such as the use of mass transit, cleaner burning alternative fuels, further refinement of reformulated gas and emphasis on routine vehicle inspection and maintenance procedures to reduce pollutants will predominate. Industry in general is no longer the main target, and air pollution problems will only worsen if businesses decide to locate outside of cities and continue to encourage commuter traffic and sprawl.

Finally, "Ozone Action Days" are a step in the right direction -- not only to build public awareness around local air pollution episodes, but also to draw attention to the importance of taking personal action to improve air quality. To simply write off the local ozone problem as "imported," as Sen. Farrow prefers, misses the point. Public involvement through recognition and behavior change is crucial to reducing local and regional ozone concentrations and their negative health impact.

Sen. Farrow is right in stating that any new regulations need to be effective and enforceable. No one has said this will be easy and painless. However, finger pointing at states upwind brings us no closer to a solution. The current EPA strategy makes sense and sets a course in the right direction to clean, healthy, breathable air.

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Virginians Want A Green Governor

Sunday, August 24, 1997; Page C08
The Washington Post

Virginians will pick a new governor in November, and with just a few months to go before the election, the candidates have been largely silent on environmental issues. Yet a nonpartisan poll of registered voters taken earlier this year by the Virginia Environmental Endowment found that, on average, Virginians give an unimpressive C+ to the quality of the state's environment.

Half of those interviewed said too little was being done to control pollution in the state's watersheds, including the Chesapeake Bay. Half

said they were concerned that Virginia was taking insufficient steps to deal with threats posed by suburban sprawl and excessive development.

And more than one-third said they thought Virginia is not doing enough to control air pollution, preserve natural areas, ensure adequate drinking water and balance economic development with a healthy environment. The poll respondents represented a cross-section of Virginia society.

But perhaps the most troubling news has come from Virginia's own General Assembly, which requested a study of the state Department of Environmental Quality by the Joint Legislative and Review Commission. The commission concluded that the agency charged with protecting the commonwealth's environment was understaffed, badly managed and soft on polluters. The study found low staff morale, fear of management reprisals, inadequate monitoring, reduced inspections and weak enforcement.

Another commission study found more bad news: Virginia is unlikely to meet one of its most important goals for restoring the Chesapeake Bay -- reducing nutrient pollution in the bay by 40 percent by the year 2000. Lack of state commitment and funding were identified as key reasons.

It's clear that the average Virginian thinks more should be done. The nonpartisan poll found that eight of 10 voters ranked environmental protection as a high priority. Nearly two-thirds said the environment will be an "extremely >> important" issue to them when they go to the polls in November to >> vote for the state's next governor. That's a message that shouldn't be lost on candidates Don Beyer (D) and Jim Gilmore (R).

Improvements to Virginia's environment will not come about by accident or with platitudes and vague promises. It will take vision, commitment, dollars and hard work. Virginia voters deserve to know whether their candidates for governor have that vision and commitment.

-- Russell W. Baxter is executive director of the Virginia Conservation Network.

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>>
>> August 25, 1997
>>
>> Printers feel flogged from proposed regs
>>
>>
>>
>> Amy Trollinger Staff Writer
>>
>> Cars do it. Printers do it. In fact, homeowners mowing their
>> lawns do it. All pollute the air in one way
>> or another, and the government is trying to find new ways to
>> erase pollution as a persistent problem.
>>

Printers and trade groups, though, say stricter standards proposed by local, state and federal governments could put an undue burden on the graphics arts industry. The ink in their blood is boiling over proposed regulations that could cost the industry millions.

"Our issue is that we've been regulated several times and these new proposals are going to pose additional costs for printers," said Lyle Van Vleet, chairman of the environmental/safety committee for the Printing Industries Association of the Heartland. "The additional standards will take a tremendous effort by the industry, and that effort will be associated with cost."

- >> That cost, contend Van Vleet and others, could cause
- >> printing companies to think twice about
- >> locating in Missouri, where particle emission standards are
- >> tough and might get tougher in the next few
- >> years.
- >>
- >> Proposals to strengthen emission standards are being debated
- >> by the Missouri Department of Natural
- >> Resources (DNR), and printers and legislators are lining up
- >> to voice their opinions about the
- >> proposals. The changes in Missouri standards are being
- >> closely watched by printers in Kansas, who
- >> expect Kansas legislators to take up emission issues next
- >> year.
- >>
- >> Representatives from the local Printing Industries
- >> Association have been testifying before local courts
- >> and government panels for the past few months, trying to
- >> emphasize that printers have done their part
- >> to clean up the air. They think the new standards should
- >> focus on automobiles -- the main pollution
- >> culprit.
- >>
- >> Higher standards

If passed, some of the new standards would require printers to beef up their control of volatile organic compounds (VOCs), which are the main target of environmental standards, because they affect ozone levels. The new proposals call for plants to emit nothing bigger than 2.5 microns, a significant drop from the current standard of 10 microns.

- >> Roger Randolph, the DNR's air director, said the proposals
- >> to change the standards are still under
- >> review and the department plans to meet with printers before
- >> changes are implemented. He said he
- >> understands printers' concerns, and said the department
- >> balances all proposed changes with the
- >> potential costs to printers.
- >>
- >> "The department always asks the question, 'Are printers
- >> doing as much as they reasonably can to
- >> reduce pollution considering the cost?'" he said. "We try to
- >> write rules that are not difficult to meet.
- >> We intend that they are reasonable."
- >>
- >> But local printers say some of the standards are not
- >> reasonable, and will be nearly impossible to meet.
- >>
- >> "They're asking too much for us to follow without
- >> considering the impact on companies," said Ray
- >> Chen, plant engineering manager for Spangler Printers, based
- >> in Kansas City, Kan. "Some of the

>> regulations are just too extreme."
>>
>> Previous standards, for example, have required printers to
>> rid their plants of nearly all substances and
>> cleaning products that contain alcohol. Previously, workers
>> could clean a press in 15 minutes, but the
>> new alcohol-free solutions take two or three washings to
>> reach the same effectiveness -- eating up
>> time and costing printers money. The new proposals would
>> make the cleaning process even more
>> intense, and therefore costly, printers say.
>>
>> "How much can you possibly do before you hurt the main
>> purpose of being in business and that is to
>> print," said Terry Siebert, purchasing manager for
>> Richardson Printing. "It's gone beyond the common
>> sense level, and the costs of any stricter regulations are
>> going to be passed on to the consumer."
>>
>> Chen said, though, that he understands the need to regulate
>> printers and other companies that emit
>> VOCs.
>>
>> "As a corporate citizen, we need to be responsible to the
>> community," he said. "Yes there are costs
>> and burdens, but we understand the responsibility to protect
>> the environment as well. We just need to
>> find a balance."
>>
>> Which way to turn
>>
>> Local legislators are wanting to help find that balance, but
>> are caught in the political dilemma of
>> wanting to be mindful of business interests while at the
>> same time wanting to protect the environment.
>>
>> Earlier this year, Sen. Kit Bond, R-Mo., and an Arkansas
>> senator sent a letter to the Environmental
>> Protection Agency regarding concerns they had about the
>> proposal to revise the National Ambient
>> Air Quality Standards (NAAQS).
>>
>> The senators felt that the proposed regulations could put an
>> undue burden on small businesses --
>> many of whom are printers -- and that the Environmental
>> Protection Agency did not take the
>> appropriate steps to involve small businesses in discussions
>> about the changes.
>>
>> The EPA and the president approved some of the new standards
>> last month, but promised they
>> would not be implemented for five years. Printers and
>> legislators say there is still hope that a
>> bipartisan effort in Congress could block the implementation
>> when the new session begins later this
>> month.
>>
>> For local printers, though, they're left to figure out
>> whether to prepare for the new standards or stick
>> with the status quo.

>>
>> "You think about it all the time," said Siebert of
>> Richardson Printing. "Every piece of equipment we
>> buy, every run we make we have to be conscious of the
>> environmental implications."
>>
>> He continued, "It gets to the point where we wonder if
>> there's a real tangible result of what we do.
>> We don't know, and the EPA can't tell us, whether what we're
>> doing is making a difference
>> scientifically."
>>
>> Scientific proof is an issue that printers and legislators
>> are both asking for. There have been no official
>> reports, said Siebert and others, to show that any of the
>> regulatory efforts already in place have made
>> a difference in improving air quality.

Sen. Bond's office contends that more scientific research should be completed before the new proposals are put into law. Bond and other legislators have said that a broad-based approach to environmental standards could halt economic growth and could damage small business' ability to expand.

For printers, the issue is one that has affected the entire local industry.

"The printing community should be aware that our industry is being targeted, and I think, wrongfully so," Siebert said. "We've made strides voluntarily and proactively, and they keep raising the bar. It's almost beyond common sense right now."

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Clausen, Shayne

From: Craig S. Rendahl[SMTP:Rendahl@PipeLine.Com]
Sent: Tuesday, September 30, 1997 9:44 PM
To: Sen.Welch
Subject: Copy of letter to Sen Farrow

I thought I would copy you on this message that I sent to Senator Farrow.

Craig

>Date: Tue, 30 Sep 1997 19:44:47
>To: Sen.Farrow@Legis.State.WI.US
>From: "Craig S. Rendahl" <Rendahl@PipeLine.Com>
>Subject: MKE health dept.

>

>Senator,

>

>I used to live on the western end of Brookfield in your district. I couldn't help but want to respond to the comments that a colleague of mine found on Internet. Please note my comments sprinkled in with Paul Nannis' assertions.

>

>Craig S. Rendahl
>Formerly of:
>19030 North Hills Dr
>Brookfield, WI 53045
>Currently of:
>4642 W. Globeberry St
>Tucson, AZ 85741

>EPA strategy makes sense
>© 1997, The Business Journal

>

>Paul Nannis Commissioner Of Milwaukee Health Department

>

>P. I would like to respond to State Sen. Margaret Farrow's recent comments (July 25 Comment) regarding the USEPA's proposed revision to the federal Clean Air Act Pollution standards -- in particular the new ozone limit.

>

>P. In her comments, Sen. Farrow is critical of a stricter ozone standard and the EPA failure to recognize the effect of "ozone transport" on local air quality. She also stresses the economic burden to industry of compliance, as well as the current lack of uniform enforcement of pollution standards across state lines. Sen. Farrow closes by questioning the effectiveness of "Ozone Action Days" in terms of any actual impact on the reduction of air pollution.

>

>C. You need only look at the data from an ozone monitor located in the City of Waukesha to find that the ozone "problem" isn't much of a problem. I seem to recall that there have NOT been exceedances of the ozone health standard since the late 1980's, yet people like Paul Nannis cite data that shows the Milwaukee Metropolitan area with a major ozone problem. This is because the DNR has most of their ozone monitors within a couple of miles from the Lake Michigan shoreline. Ozone formation is facilitated out over the lake and is occasionally brought inland by afternoon lake breezes. I don't recall all of the facts, but it seems to me that if you look at the historic data, ozone is not much of a problem more than six miles inland.

Even so, millions upon millions of dollars have been spent to reduce a problem that is a problem for only a couple of hours out of the entire year!

>

>C. The DNR has an annual review of their entire network of monitors. You might want to ask them when their next review is, and ask them why they feel they need several monitors next to the Lake Michigan shoreline? Wisconsin has far too much a saturation of monitors for what is essential to the protection of public health. Just look at what other states have in their networks to determine for yourself if this is true.

>

>P. First, the need for a more stringent federal ozone standard from a public health standpoint is inarguable. The proposed new standard is appropriately "health-based." It is supported by numerous studies demonstrating the adverse effects of ozone exposure on otherwise healthy adults at levels well below the current standard of 0.12 ppm. In addition, ozone exposure at low levels is implicated in irreversible changes in pulmonary function, including damage to lung tissue and the development of chronic respiratory diseases such as bronchitis and emphysema. Furthermore, no one can ignore the role of ozone in exacerbating other lung conditions, such as chronic asthma, which is on the increase globally and affects more than 14 million adults and children in this country alone.

>

>C. Contrary to Mr. Nannis, there is sufficient evidence that the ozone air quality standard should really be 0.15 ppm. I was a speaker at a conference sponsored by the Air & Waste Management Association in October of 1992 where this topic was covered extensively. Much of the "true" scientific evidence suggested that when the health standard was raised from 0.08ppm under the Carter Administration in the late 1970's, general public health would not be adversely affected. Without becoming too much of a demagogue, I would suggest that the modern socialist movement can now be found in the environmental movement. After all, who could be against clean air? The more appropriate and sophisticated question is what is an appropriate standard that balances public health with the will of the people to sacrifice to meet the standards?

>

>P. Second, while ozone movement does contribute to ozone problems downwind, all air models recognize and account for ozone that is local in origin. Sen. Farrow fails to acknowledge that "Wisconsin ozone" is also transported (similar to the >Illinois variety) downwind to other communities, especially those bordering the Lake Michigan shoreline. The simple fact is that air pollutants do not recognize political boundaries and can adversely affect quality of life in areas far removed from the source. The revised USEPA mandated state implementation plans (SIPs) recognize this phenomena and incorporate enforcement actions to eventually ensure ozone reduction on a broad, regional basis. While not the strict uniform enforcement that Sen. Farrow advocates, any resulting enforcement will be much more equitable and based on actual regional "areas of influence," as opposed to an "area of violation."

>

>C. There is a certain amount of truth to what Mr. Nannis says about Wisconsin dirty air causing problems for others. Air pollution does not stop at the border. What is not mentioned by Mr. Nannis is what consequence is there to "receptor" locations of Wisconsin air pollution sources. One must have northerly winds to force Wisconsin pollution south to affect Indiana and Illinois. The monitoring data collected over several years of research indicates that northerly winds do not produce exceedances of the ozone health standard for these states. Only Michigan could claim some of their air quality is affected by Wisconsin, but they do not have the numbers of exceedances that Illinois has. So therefore is Wisconsin

really affecting the air quality of the majority of the population in the Lake Michigan basin?

>

>P. The Ozone Transport Assessment Group (OTAG), comprising 37 states, industry and environmental groups east of the Mississippi River, is a good example of an EPA partnership reflecting the philosophy of building consensus on meaningful source reduction in multi-state ozone corridors, as well as assisting local areas in achieving federal air quality standards. OTAG is slated to recommend a control strategy to the EPA this year.

>

>C. There is already major debate over the preliminary conclusions that have come from this group. Northeastern states are looking to midwestern power plants for reductions in pollutants. Stay tuned!

>

>P. Third, while there may be some economic impact on specific industries as related to compliance with the new regulations, such as coal-burning utilities (which produce a wide array of pollutants), compliance with the proposed regulations focuses more heavily on consumer related activities and mobile sources of emissions. Passenger automobiles, recreational vehicles and lawn and garden equipment can account for up to 45 percent of ozone impacting non-attainment areas, by recent WDNR calculations. Strategies such as the use of mass transit, cleaner burning alternative fuels, further refinement of reformulated gas and emphasis on routine vehicle inspection and maintenance procedures to reduce pollutants will predominate. Industry in general is no longer the main target, and air pollution problems will only worsen if businesses decide to locate outside of cities and continue to encourage commuter traffic and sprawl.

>

>C. I again point out that the modern socialist movement can be found in the environmental pressure groups. While I will be quick to say that I believe in responsible usage of our resources, I will equally place a premium on freedom of choice. I choose to use my car because it is safer, provides freedom to run errands whenever I can get to them, and does not waste tremendous amount of time that public transit wastes. If Milwaukee had put in car pool lanes as part of the I94 rebuild, you would find carbon monoxide (CO) concentrations actually go down, as CO is caused by lots of cars detained in tight spaces. Unfortunately, a socialist believes in only what they want "for the good of society". We have examples in recent history of socialist governments and their records of doing good for society. Please Senator, reject the kind of discussion that Mr. Nannis has offered. Look at how many hours of the year that ozone is really a problem, then decide intelligently how much more public and private expenditure is really worth trying to eliminate the last couple of hours a year that are classified "unhealthful".

>

>P. Finally, "Ozone Action Days" are a step in the right direction -- not only to build public awareness around local air pollution episodes, but also to draw attention to the importance of taking personal action to improve air quality. To simply write off the local ozone problem as "imported," as Sen. Farrow prefers, misses the point. Public involvement through recognition and behavior change is crucial to reducing local and regional ozone concentrations and their negative health impact.

>

>C. Please ask Mr. Nannis how many tons of emissions have been reduced because of Ozone Action Days. Furthermore, ask how much ozone was not produced because of the emissions reductions. you will find that there is a negligible affect on emissions due to Ozone Action days. Having said that, the concept of voluntary emissions reductions on days when it would count the most isn't inherently a bad idea. As always, to what degree do we participate?

>
>P. Sen. Farrow is right in stating that any new regulations need to be effective and enforceable. No one has said this will be easy and painless. However, finger pointing at states upwind brings us no closer to a solution. The current EPA strategy makes sense and sets a course in the right direction to clean, healthy, breathable air.

>
>C. I am sorry that Mr. Nannis has reduced himself to name calling and other immature antics. This is usually how liberals relate to people who don't do as liberals what them to do. I have known you to be responsible in you actions as a legislator. While I would classify me as being more conservative than you, I can say that I have had respect for your approach to your job. Please do not be swayed because someone in the public arena cannot deal with not getting their way.

>
>

11/19 - ROADBUILDER - MEETING

1. Southeast - raised issues of Gen. Operating Permit (G.O.P.)
 - Dave Marks - concerned about GOP.
 - monthly telephone conference.
 - under 300,000 no permit, recordkeeping needed (sites specific)
 - ? of what applies to sites / permits; i.e. GOP vs. Crushing Permit.
 - GOP - follow NSPS permit = 90% control efficiencies.
 - some companies NSPS approved equip.
 - ~~OS~~
 2. Walker - AP42 - bottom line - agreement is paramount.
 - industry - EPA sanction process - 95 AP-42.
 - DNR - has problem - appeal to EPA over new AP42 standards.
 - PM₁₀ x 2.1 = TSP (Total Suspended Particulates).
 3. Todd Palmer
 - DNR could be challenged: measurements
 - success is ? able.
 - consistency is the problem - S.E. making this up as they go along.
 4. Compliance costs - more of a problem
 - fees are secondary
 - seeking peace in a regulatory environment.
- Osborne
- (a) default to 96 for 97
 - (b) 97 agreement & AP42 being resolved
 - (c) free for all - no 97 or 96 agreement. (Co. report based on estimates) (yes)

Is TSP a statutory requirement / rule ~~not~~ requirement.

- seek adm. rule changes (TSP as part of AP 42)
- TSP# is FM filterable.

Peshik

- need consistent issues / statement / philosophy
- agreement format.
- messages must be consistent.

Printers wanted to get changes in AP 42. ⁽⁹⁵⁾ - Air Mgmt said no.
Rebuilders / Processors - wanted uniformity in AP 42 (95) - Air Mgmt
said no. still cling to old TSP standard.

Standards for Air Quality - should have a national
legislative basis.

Walker

- members want EOP (hassle-free license)

Oskame

- interim one year agreement ('97)
- better than '96; some clarification in options.

Framework for unified approach - WRBA / APW

- '97 one year agreement; (multiplier) is not on the table) - OSBORNE - suggested trial case

- PESHEK - tells H. is. Meyer - don't agree - look at this issue (PM filterable) DNR commitment to review code changes.

- Walker - '94 is no prejudice / members not concerned about cost / want consistency - OK for '97 using '96 calculation

- TSP framework does not produce environment for AP 42 resolution.

- PM10 should be the goal.

CONNECTING Wisconsin to the world



WISCONSIN TRANSPORTATION BUILDERS ASSOCIATION

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MEMO

To: Kevin Kessler,
DNR-WA/3

Date: 30 Apr 1998

From: RB Willder 

Subject: NR 135 Briefing Questions; DNR Response to

Attached are the 24 written questions that were submitted and discussed at the Briefing on the 29th.

As a number of persons had to leave prior to the end of the program, we agreed to provide all registrants with a copy of the questions and the department's responses.

Accordingly, I am including a copy of the questions on-disk. As I'm not sure which wordprocessing format you have, I have saved the document in both WordPerfect 6.1 AND 5.1/5.2 formats. If you can not read either format, feel free to merely provide responses, by question number, in whatever wordprocessing format you have, on the disk and I will convert it once you return the disk.

I would appreciate it if you could provide the department's responses as soon as possible. With the first public hearing on NR 135 coming-up in Madison on May 13th, we believe that it will be beneficial for the department if a number of the producer's concerns have already been addressed.

If you have any questions, feel free to contact me directly at your convenience.

cc: Tom Portle; DNR-WA/3
Dan Graff; DNR-LS/5
Kurt Bechthold
Jim Hoffman
Tom Walker

bcc: Sue Courter
Ron Garrison
Ed Reesman
Jim Schmitt
Pat Osborne; APW



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NR 135 BRIEFING - QUESTIONS

The following is a compilation of the 24 written questions that were raised by the attendees at WTBA's NR 135 Briefing, held on Wednesday, 29 April 1998. They are being transmitted to the DNR for a written follow-up response. As some registrants had to leave prior to the end of the briefing, the complete list of questions and responses will be forwarded to those persons who registered for the briefing, once they are received from DNR.

1. How will non-conforming "grandfathered" quarries which were registered with the local zoning agency as industrial manufacturing sites prior to the enactment of NR 135 be affected?

DNR RESPONSE:

2. How will fees be charged on existing mined quarry land and future land with mineral resources?

DNR RESPONSE:

3. Since NR 135 no longer requires counties (and other municipalities) to adopt the reclamation standards specified in the "model program", how does the DNR intend to ensure that the counties (and other municipalities) do not adopt overly restrictive reclamation standards?

DNR RESPONSE:

4. Will recycling areas (concrete and asphalt) located in a quarry be exempt from NR 135 coverage?

DNR RESPONSE:

5. How will shop and equipment storage areas in a quarry be affected by NR 135?

DNR RESPONSE:

6. If a quarry or gravel pit is “registered” but not yet mined, what effect will any change in a “land use plan” enacted during the registration period, have on the site?

DNR RESPONSE:

7. Can the local municipality “zone-out” a pit or quarry after the initial registration period? If so, what can be done to protect the operator’s interests?

DNR RESPONSE:

8. Since it appears easy for counties (and other municipalities) to justify their fees (even if they appear extreme), is there any “cap” imposed by the DNR?

DNR RESPONSE:

9. If a current land use plan (enacted within the last year) did not consider mineral resources in it’s development, and precludes mining, are there opportunities for contesting the plan to allow for future mining (ie: in a township)?

DNR RESPONSE:

10. Can a county (or other municipal) government enact the reclamation part of the law, and not take the registration portion of it?

DNR RESPONSE:

11. Exclusive agricultural zoning allows mining for governmental uses as a “conditional use”. Can registration go forward in exclusive agricultural zoning districts?

DNR RESPONSE:

12. If you register or pay fees on an active sand & gravel operation, and financial conditions allow taking sand from a “mined-out” area not registered, what is the procedure for re-opening?

DNR RESPONSE:

13. By allowing a county (or other municipality) to collect fees, do you see more fees per ton to pay for county (or municipal) infrastructure?

DNR RESPONSE:

14. If you have a high wall area (that you intend to flood eventually) in a large quarry with no current mining activity in that part of the quarry, will fees be charged in this part of the quarry until it is flooded?

DNR RESPONSE:

15. With regard to county (or municipal) level enforcement, how will the DNR ensure consistent interpretation of the rules and cooperation between parties, in the event of a dispute?

DNR RESPONSE:

16. Is there a governing formula to calculate reclamation costs for any given site?

DNR RESPONSE:

17. Are reclamation permits transferrable, providing the bond is satisfied by the new entity?

DNR RESPONSE:

18. Is the reclamation permit assigned to the land or to an entity (ie: operator or landowner)?

DNR RESPONSE:

19. Will government owned (or operated) pits and quarries require a reclamation permit and bond? If so, will the same levels of bonding be applied? If not, why not?

DNR RESPONSE:

20. Some quarries have "waste" stone which could be marketed in the future, depending on market conditions. Three different reclamation plans are possible for these areas. Are alternate reclamation plans acceptable?

DNR RESPONSE:

21. It appears that the fees detailed in the tables in NR 135 are at the "high-end" of the spectrum, even if the DNR truly believes their costs would be more than a county (or other municipality). What opportunity does an operator have to question these fees before they are put in-place, and is there a "sunset" when they have to be re-evaluated? If not, why not?

DNR RESPONSE:

22. How does annexation affect a nonmetallic mining site, if the “new” governing agency does not allow mining, even though the “old” one did (ie: a city or village annexes a parcel from a town that has a quarry on it)?

DNR RESPONSE:

23. If a nonmetallic mining CUP was issued by a zoning authority under an existing land use plan, will it remain in effect for the full term (up to 20 years), even if the land use plan is amended to meet the “new” requirements of the law, or will it be subject to review and amendment along with the land use plan itself?

DNR RESPONSE:

24. Please review NR 135.58 “Objection to Registration by a Zoning Authority”. NR 135.58 (1)(a) states that, if a parcel of land is zoned Agricultural (for instance; on the day the NOI to register is made) and the Ag regulations do not permit or conditionally permit nonmetallic mining, the zoning authority may object to the registration. This does not state the zoning must prohibit mining. The parcel must be zoned for mining prior to registration, to preclude a zoning authority from objecting on this wide basis.

DNR RESPONSE: